

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:20CV85-GCM

HELEN CASSARA and JOYCE RIGGIN,)	
an individual and power of attorney for)	
HELEN CASSARA, an elderly adult,)	
)	
Plaintiffs,)	
)	
v.)	ORDER
)	
PNC BANK, N.A., et <i>al.</i> ,)	
)	
Defendants.)	
_____)	

This matter is before the Court upon the Court’s own motion. Plaintiff Joyce Riggins filed this action against Defendants on February 10, 2020 as power of attorney for Helen Cassara. Ms. Cassara passed away on February 21, 2020, as evidenced by the Suggestion of Death filed by Defendants on April 7, 2020. (Doc. No. 11).

Federal Rule of Civil Procedure 25(a)(1) provides as follows:

- 1) Substitution if the Claim Is Not Extinguished. If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

The 90-day time limit for substitution of party expired on July 7, 2020. Plaintiff Riggins requested and was granted a 60-day extension of time until September 4, 2020 to allow her to seek appointment as administrator of the Cassara estate and move to substitute. (*See* Doc. No. 71). Riggins subsequently moved for an additional extension of time to substitute a party through and including November 3, 2020. (Doc. No. 77) The Court also granted this motion.

The extended deadline for filing a motion to substitute has passed and Riggin has not moved for an additional extension. Accordingly, the Court has no choice but to dismiss this action without prejudice.

IT IS THEREFORE ORDERED that the case is hereby dismissed without prejudice.

Signed: December 7, 2020

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

